CONSTITUTION OF WILTON RANCHERIA

ENACTED: NOVEMBER 12, 2011
LAST AMENDED AND RESTATED: DECEMBER 8, 2012

PREAMBLE

We, the people of Wilton Rancheria, pursuant to our inherent sovereignty, in order to form a more perfect government, secure our rights, advance the general welfare, safeguard our interests, sustain and enrich our culture, promote our traditions and perpetuate our existence, achieve and maintain a desirable measure of prosperity, and secure the natural and self-evident right to govern ourselves, do ordain and establish this Constitution for Wilton Rancheria.

ARTICLE I – NAME

The name of the Tribe shall be Wilton Rancheria.

ARTICLE II – TERRITORY AND JURISDICTION

Section 1. Territory. The territory of Wilton Rancheria shall include all lands held by the Tribe or its members, or by the United States for the benefit of the Tribe or its members, and any additional lands acquired by the Tribe or by the United States for the benefit of the Tribe or its members, including but not limited to air, water, surface, subsurface, natural resources, and any interest therein.

Section 2. Jurisdiction. The jurisdiction of Wilton Rancheria shall extend to all territory set forth in Section 1 of this Article and to any and all persons or activities therein, based upon the inherent sovereign authority of the Tribe.

ARTICLE III – MEMBERSHIP

Section 1. Requirements.

The following persons shall be eligible for membership in Wilton Rancheria:

a. All persons listed as distributees or dependant members in *A Plan for Distribution of the Assets of the Wilton Rancheria, According to the Provisions of Public Law 85-671, Enacted by the 85th Congress, Approved August 18, 1958*, as approved by the deputy commissioner of the Interior Department's Bureau of Indian Affairs on July 6, 1959; and

b. All lineal descendents of an individual eligible for membership under subsection (a) above, regardless of whether the individual through whom eligibility is claimed is living or deceased.

Section 2. Dual Enrollment. A person who is officially enrolled with or is a recognized member of some other tribe, band, or rancheria shall not be enrolled with Wilton Rancheria unless he/she relinquishes membership with the other band or tribe. A "recognized member of another tribe, band, or rancheria" is a person whose name is listed on the membership roll of another tribe recognized by the Secretary of the Interior as possessing a government-to-government relationship with the United States. Inherited interests in trust allotments shall not disqualify a person from membership.

Section 3. Membership Roll. There shall be established an official Wilton Rancheria membership roll which shall include all persons who have presented the necessary and required evidence of eligibility for membership in the Tribe.

ARTICLE IV – ORGANIZATION OF THE GOVERNMENT

Section 1. Organization of Government. The government of Wilton Rancheria shall be composed of a Chairperson, a Vice-Chairperson, a Tribal Council, a General Council, and a Tribal Court.

Section 2. Separation of Functions. Except as provided in this Constitution, the Chairperson, Vice-Chairperson, Tribal Council, General Council, and Tribal Court shall be separate and distinct and shall not exercise the powers and functions delegated to any other officer or entity.

Section 3. Supremacy Clause. The Constitution shall be the supreme law over all territory and persons within and under the jurisdiction of Wilton Rancheria.

ARTICLE V – CHAIRPERSON

Section 1. Powers of the Chairperson. The Chairperson shall lead the Tribe based upon direction received from the Tribal Council and shall be the spokesperson for the Tribe. The Chairperson shall have the power:

a. To execute, administer, and enforce the laws of the Tribe;
b. To represent the Tribe on all matters that concern its interests and welfare;
c. To negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals, provided however that any treaty, compact, contract, or agreement that directly or indirectly waives the Tribe's sovereign immunity must be approved by the Tribal Council;
d. To sign official papers on behalf of the Tribe;
e. To make recommendations to the Tribal Council on matters of interest or benefit to the Tribe;
f. To propose laws and an annual budget to the Tribal Council;
g. To attend Tribal Council meetings and provide regular reports to the Tribal Council regarding activities and business of the Tribe;
h. To veto any decision of the Tribal Council, including its approval of an annual budget, within ten calendar days after passage and written presentation to the Chairperson;
i. To preside over meetings of the General Council;
j. To call Annual and Special Meetings of the General Council;
k. To administer all departments created by the Tribal Council;

l. To administer all boards and committees created by the Tribal Council;
m. To nominate the directors of each department subject to confirmation by the Tribal Council, except that if a confirmation vote is not taken by the Tribal Council within forty-five days, the nomination shall be deemed confirmed;
n. To remove a director of a department;
o. To select, hire, and administer personnel;
p. To contract for accounting services;
q. To administer and direct the Tribe's legal counsel; and
r. To establish and maintain headquarters for the Tribe.

Section 2. Vice-Chairperson. The Vice-Chairperson shall have the power:

a. To exercise any of the Chairperson's authority delegated by the Chairperson;
b. To attend Tribal Council meetings;
c. To vote in the event of a tie during a Tribal Council meeting;
d. To be responsible for the recording of minutes during meetings of the Tribal Council and General Council;
e. To attest the enactment of laws; and
f. To be responsible for maintaining records.

Section 3. Terms of Office. The Chairperson and Vice-Chairperson shall serve staggered four-year terms. However, the Vice-Chairperson elected in 2012 shall serve only until the 2014 General Election.

Section 4. Qualifications. Only tribal members who are at least thirty years of age on the date of the General Election shall be eligible to run for or serve as Chairperson or Vice-Chairperson.

Section 5. Term Limits. The Chairperson and Vice-Chairperson shall each be limited to two consecutive terms. A Chairperson or Vice-Chairperson having served two consecutive terms must wait one full term before again seeking the same position.

ARTICLE VI – TRIBAL COUNCIL

Section 1. Composition of the Tribal Council. The Tribal Council shall consist of seven members, and each member shall possess one vote and share equally in the power designated to the Tribal Council pursuant to this Constitution.

Section 2. Powers of the Tribal Council. The Tribal Council shall make the Tribe's laws. The Tribal Council shall have the power:

a. To make all laws, including resolutions, codes, and statutes;
b. To establish administrative departments that shall be administered by the Chairperson, such as a Department of the Treasury, Administration, Business, Housing, Health, Social Services, Education, Personnel, and any other departments deemed necessary by the Tribal Council;
c. To pass laws regulating the Tribe's elections, enrollment, employment, and all other matters so long as those laws are consistent with the Constitution;
d. To create boards and committees and to set qualifications for participation on those boards and committees;

e. To appoint members of the Election Commission;
f. To authorize expenditures by law and appropriate funds in an annual budget;
g. To raise revenue, including the power to levy and collect taxes and license fees;
h. To set its own procedures, to select its officers, and to enact laws governing attendance of its members, including penalties for absences;
i. To require comprehensive reporting from the Chairperson regarding the Tribe's finances, businesses, and other activities;
j. To override a veto by the Chairperson by an affirmative vote of two-thirds of the entire Tribal Council;
k. To choose and employ the Tribe's legal counsel;
l. To approve any treaty, compact, contract, or agreement that directly or indirectly waives the Tribe's sovereign immunity;
m. To issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities;
n. To protect and foster the Tribe's religious freedom, culture, language, and traditions;
o. To promote public health, education, charity, and other such services as may contribute to the social advancement of the members of Wilton Rancheria; and
p. To pass laws which further develop and define the Tribal Court so long as those laws are consistent with the Constitution.

Section 3. Quorum. A majority of the Tribal Council shall constitute a quorum. A quorum shall be necessary to transact official business of the Tribal Council.

Section 4. Voting. A majority vote by the quorum shall be necessary to exercise the powers of the Tribal Council. The votes of each member of the Tribal Council shall be recorded in the minutes.

Section 5. Terms of Office. Members of the Tribal Council shall serve four year terms which shall be staggered. However, the three Tribal Council members receiving the lowest percentage of votes in the Tribe's 2012 General Election shall serve only until the 2014 General Election.

Section 6. Qualifications. Only tribal members who are at least twenty-five years of age on the date of the General Election shall be eligible to run for or serve on the Tribal Council.

Section 7. Term Limits. Members of the Tribal Council shall be limited to two consecutive terms. Tribal Council members having served two consecutive terms must wait one full Tribal Council term before again seeking a seat on the Tribal Council.

Section 8. Election of Tribal Council Members. Members of the Tribal Council shall be elected at-large by the Tribe's eligible voters.

Section 9. Meetings. The Tribal Council shall hold regular meetings at least once per month. The Tribal Council may hold special meetings as necessary. Tribal Council shall attend regular and special meetings and participate in such meetings in a professional manner.

ARTICLE VII – GENERAL COUNCIL

Section 1. Composition of the General Council. All eligible voters of Wilton Rancheria are entitled to participate in the General Council.

Section 2. Powers of the General Council. The General Council shall have the power:

a. To propose amendments to the Constitution pursuant to Article XIV, Section 2;
b. To approve amendments to the Constitution pursuant to Article XIV, Section 1;
c. To elect those officials in electable positions pursuant to Article IX;
d. To remove officers pursuant to Article X, Section 1; and
e. To call a Special Meeting of the General Council pursuant to Section 4 of this Article.

Section 3. Annual Meeting. The General Council shall meet one time each year in a meeting during the second full weekend of June beginning in 2012. During even-numbered years beginning in 2014, the meeting shall occur in conjunction with the Tribe's General Election. Notice shall be provided by the Chairperson for Annual Meetings of the General Council.

Section 4. Special Meetings. Special Meetings of the General Council shall be called by the Chairperson upon written petition by thirty percent of the General Council, or upon written request of a majority of the Tribal Council, or when deemed necessary by the Chairperson. Notice shall be provided by the Chairperson for all Special Meetings of the General Council.

Section 5. Procedures. A majority of the eligible voters of the Tribe present in General Council shall constitute a quorum. Each action of the General Council shall require the presence of a quorum. The Vice-Chairperson shall be responsible for the recording of the minutes of any General Council meeting, including any votes taken. The Vice-Chairperson shall transmit the minutes of the General Council meetings to the Tribal Council.

ARTICLE VIII – TRIBAL COURT

Section 1. Composition of the Tribal Court. There shall be one Chief Judge of the Tribal Court and other Associate Judges as deemed necessary by the Tribal Council. Tribal Court judges shall be appointed by the Tribal Council and shall be admitted to practice law before the highest court of any state.

Section 2. Terms of Office. Tribal Court judges shall serve four-year terms.

Section 3. Powers of the Tribal Court. The judicial power of Wilton Rancheria shall be vested in the Tribal Court. The Tribal Court shall have the power to interpret and apply the Constitution, laws, customs, and traditions of Wilton Rancheria.

Section 4. Jurisdiction of the Tribal Court. The Tribal Court shall have original jurisdiction over all cases and controversies, both criminal and civil, in law or in equity, arising under the Constitution, laws, customs, and traditions of Wilton Rancheria, including cases in which Wilton Rancheria, or its officials and employees, shall be a party. Any such case or controversy arising within the jurisdiction of Wilton Rancheria shall be filed in the Tribal Court before it is filed in any other court. This grant of jurisdiction by the General Council shall not be construed to be a wavier of the Tribe's sovereign immunity.

Section 5. Composition of Traditional Court. The Traditional Court shall be made up of a pool of elders appointed by the Tribal Council.

Section 6. Purpose of Traditional Court. The Traditional Court shall exist to assist the Tribal Court in the resolution of cases or controversies involving tribal members and to advise the Tribal Court on matters of custom and tradition.

Section 7. Appellate Review. The Tribal Council may create a Tribal Court panel for appellate review. However, no person serving as Chairperson, as Vice-Chairperson, or as a member of Tribal Council may simultaneously serve on any such panel.

Section 8. Conflicts of Interest. Any judge with a direct personal or financial interest in any matter before the Tribal Court shall recuse. The Tribal Council shall appoint a Judge or Justice pro tempore to fill any vacancy due to recusal.

ARTICLE IX – ELECTIONS

Section 1. General Elections. General Elections shall be held during the second weekend in June of even-numbered years beginning in 2014. General Elections shall be held in conjunction with the General Council's Annual Meeting. The Chairperson, Vice-Chairperson, and members of the Tribal Council shall be selected at the General Elections. All elected officials shall take office on the Monday immediately following the election.

Section 2. Run-Off Elections. Run-off elections shall be held during the second weekend in June of even-numbered years beginning in 2014 for all General Election races which end in a tie or in which the Chairperson or Vice-Chairperson fails to obtain more than a majority of the vote. A run-off election shall include only the two individuals who have tied in any race or the two candidates who have received the highest number of votes in the election for Chairperson or Vice-Chairperson.

Section 3. Eligible Voters. Any member of Wilton Rancheria who is at least eighteen years of age shall have the right to vote.

Section 4. Election Commission. The Wilton Rancheria Election Commission shall be an autonomous and permanent entity charged with the administration of Wilton Rancheria's elections, in accordance with this Constitution and the Tribe's election laws. Prior to each election, the Tribal Council shall appoint all members of the Election Commission and will enact laws which will govern the conduct of all elections. Commission members appointed by the Tribal Council shall serve only until the results of the next General Election are certified. However, Commission members may be re-appointed.

Section 5. Qualifications. No person shall be eligible to hold elected office in the Tribe who has been convicted of felony. All candidates for office must submit to a criminal background check in order to be included on a ballot. Any elected official convicted of a felony while in office shall be automatically removed from office by the conviction.

ARTICLE X – REMOVAL AND VACANCIES

Section 1. Removal. The Chairperson, Vice-Chairperson, Tribal Council members, Judges, and Traditional Court members may be removed for good cause through the removal process. The Tribal Council may begin the removal process by an affirmative vote of at least two-thirds of the entire Tribal Council to submit the issue to a meeting of the General Council. The removal process may also be initiated upon presentation to the Chairperson of a petition signed by a majority of the eligible voters of the Tribe to submit the issue to a meeting of the General Council. After the issue of removal has been referred to the General Council by the Tribal Council or by a petition of the eligible voters of the Tribe, the General Council may vote to remove the official through a two-thirds vote at a Special Meeting called for that purpose and at which a quorum is present. Any official whom the Tribal Council has requested be removed by the General Council shall be informed of the charges and given an opportunity to prepare and present a defense, including presenting witnesses and other evidence at the Special Meeting.

Section 2. Vacancies. Any vacancy in the position of Chairperson shall be filled by the Vice-Chairperson. If a vacancy occurs in any other elected position because of death, resignation, mental or physical incapacity, removal, assumption of the Chairpersonship by the Vice-Chairperson, or any other reason, such vacancy shall be filled in the following manner:

a. The Chairperson shall appoint a tribal member eligible to hold such position.

b. The Tribal Council shall approve the appointment by a vote of at least two-thirds of the entire Tribal Council.

Section 3. Terms for Vacancies. Persons appointed to fill a vacancy shall serve only until the Tribe's next General Election. If the position is one which would not have been up for election during the next General Election, the individual elected to fill the position during the next General Election will serve for only the two years which would have remained in the position's term.

ARTICLE XI - BILL OF RIGHTS

Wilton Rancheria, in exercising its powers of self-government, shall not:

1. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for the redress of grievances;

2. violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

3. subject any person for the same offense to be twice put in jeopardy;

4. compel any person in any criminal case to be a witness against him or herself;

5. take any private property for a public use without just compensation;

6. deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, and at his or her own expense to have the assistance of counsel for his or her defense;

7. require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of three years and a fine of $15,000, or both;

8. deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

9. pass any bill of attainder or ex post facto law;

10. deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons; or

11. deny any member of his or her membership status, or of the benefits afforded as a result of that membership status, without due process of law; or

12. deny any adult member the right to vote without due process of law.

ARTICLE XII – STATUTES

Section 1. Statutes. All laws passed by the Tribal Council shall be embodied in statutes. Such enactments shall be available for inspection by members of the Tribe during normal business hours.

Section 2. Form. All statutes shall be dated and numbered and shall include a certificate of verification.

Section 3. Codes. All statutes should be organized into codes based on subject matter.

ARTICLE XIII – SOVEREIGN IMMUNITY

Section 1. Immunity of Tribe from Suit. Wilton Rancheria shall be immune from suit except to the extent that the Tribal Council expressly waives its sovereign immunity. Officials and employees of Wilton Rancheria acting within the scope of their duties or authority shall be immune from suit.

Section 2. Suit against Officials and Employees. Officials and employees of Wilton Rancheria who act beyond the scope of their duties or authority shall be subject in suit in equity only for declaratory and non-monetary injunctive relief in Tribal Court by persons subject to its jurisdiction for purposes of enforcing rights and duties established by this Constitution or other applicable laws. However, nothing in this paragraph shall be held to limit the Tribe itself from bringing an action for civil or criminal liability against its employees or officials.

ARTICLE XIV – AMENDMENTS

Section 1. Requirements. This Constitution may be amended by a two-thirds vote at a Special Meeting of the General Council called for that purpose and at which a quorum is present.

Section 2. Request for Amendment Election. The Chairperson shall call and hold an election to amend the Constitution at the request of two-thirds of the entire Tribal Council, at the request of the General Council, or upon presentation of a petition signed by thirty percent of the eligible voters of the Wilton Rancheria.

ARTICLE XV – SAVINGS CLAUSE

All actions of the Interim Tribal Council of Wilton Rancheria, elected on March 28, 2010, taken before the effective date of this Constitution shall remain in full force and effect to the extent that they are consistent with this Constitution. All members of the Interim Tribal Council of Wilton Rancheria, elected on March 28, 2010, shall remain in office as an Interim Tribal Council until the first General Election is held. The Interim Tribal Council of Wilton Rancheria, elected on March 28, 2010, shall prepare notice and hold the Tribe's General Election within 150 days from the adoption of this Constitution pursuant to procedures developed by the same and consistent with this Constitution and shall serve as the Election Committee for the Tribe's 2012 General Election. The Interim Tribal Council of Wilton Rancheria, elected on March 28, 2010, shall prepare a membership roll according to the criteria for eligibility for membership provided within this Constitution.

ARTICLE XVI – SUPERSEDES PREVIOUS CONSTITUTION

This Constitution and the provisions contained within overrule, supersede, and repeal the provisions of the Tribe's Constitution enacted on the 7th day of December 1935, of any other constitutions, and of any laws passed or actions taken pursuant to the 1935 Constitution or any other constitution.

ARTICLE XVII – ADOPTION OF CONSTITUTION

This Constitution may be adopted by a majority vote at a meeting called for that purpose, provided that at least forty percent of those entitled to vote shall be present at the Special Meeting. The Interim Tribal Council of Wilton Rancheria, elected on March 28, 2010, shall provide voters with at least a fifteen-day notice of the meeting. The Constitution shall be effective from the date of such meeting.

Legislative History:

11/12/11	Adopted by Tribe's eligible voters in an election administered by the Bureau of Indian Affairs.
10/11/12	Pursuant to Tribal Council Resolutions 2012-28 and 2012-29, the Tribal Council proposed amendments.
12/08/12	The Tribe's eligible voters adopted the amendment contained within Resolution 2012-29 and rejected the amendments proposed by Resolution 2012-28.

Certification

I, Treaver Hodson, the undersigned, duly-elected Secretary of the Wilton Rancheria Interim Tribal Council, do hereby certify that the foregoing Constitution of Wilton Rancheria was adopted by the General Council of Wilton Rancheria at a duly-called election on November 12, 2011, and was duly ratified by a vote of 127 for and 5 against, in an election in which at least forty percent (40%) of those entitled to vote cast their ballots.

Treaver Hodson

Witnessed by:

Andrew Franklin
Treasurer, Interim Tribal Council